UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/324,741	06/03/1999	ROBERT S. DELAND	9127-1E006US	1968

23363 7590 12/17/2002

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

EXAMINER
TREMBLAY, MARK STEPHEN

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 12/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/324,741	DELAND, ROBERT S.	
	Examiner	Art Unit	
	Mark Tremblay	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *23* is/are allowed.

6)☒ Claim(s) *1-6 and 8-18* is/are rejected.

7)☒ Claim(s) *7, 19-22* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6 8-18 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent #5,546,462 to Indeck ("Indeck" hereinafter) in view of U.S. Patent #5,616,904 to Fernadez ("Fernadez" hereinafter). Indeck teaches an identification system for identifying documents bearing a magnetic stripe recorded 102 with digital data and having a repeatable magnetic characteristic, comprising:

a magnetic stripe sensor 100 for sensing the magnetic stripe to provide an analog signal representative of the recorded digital data and the repeatable magnetic characteristic;

a digitizer (see column 5, lines 42-44) for sampling the analog signal to provide digitized samples indicative of the repeatable magnetic characteristic;

a storage (see column 5, lines 42-44 and column 10, lines 54-68) for storing representations of the digitized samples as identification data to identify the document.

While Indeck suggests that ranges are acceptable because of inaccuracy in measurements of the magnetic fingerprint, and noise in the head and electronics, Indeck does not clearly disclose a waveform circuit for providing range data characteristic of the analog signal coupled with a storage to store the range data. Fernadez teaches a waveform circuit for providing range data characteristic of the analog signal and a storage to store the range data. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the technique of Indeck for determining the magnetic fingerprint based on the noise remnant of the permanent magnetic microstructure on the card with the technique of Fernadez for measuring the "jitter" of the magnetic analog signal in terms of ranges using a range circuit, and storing both in a storage as a means of authenticating the data, because this would make the

potential forger susceptible to two different techniques and two possible modes of exposure, decreasing the likelihood of forgery.

Re claim 2 and 8, both methods would apply to flat portions of the waveform. Indeck appears to apply anywhere. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to apply the combined techniques to a series of leading zeros, because the techniques are applicable to all numbers, and documents with a series of leading zeros are notoriously old and well known in the art. Leading zeros are a common fill technique, when the number is low but a set number of digits must be recorded.

Re claim 4, it is clear from both references that there is data used to fetch identification data from the storage.

Re claims 9-10, 14-15 see Fernadez.

Response to Arguments

Applicant's arguments filed 10/3/02 have been fully considered but they are not persuasive. Applicant asserts that Indeck teaches away from the combination because the Fernandez patent involves the use of a digitizer, which Indeck describes as expensive. The Examiner respectfully disagrees with this line of reasoning. In essence, Applicant argues that since the '904 reference teaches the undesirability of systems like '462, the '462 is not a valid teaching and should not be applied anywhere. However, the chief complaints Applicant refers to deal with expense and complexity. Since the complaint is not about the efficacy, the Examiner does not agree that the combination would not achieve the purpose of reducing fraud.

Applicant's assertion that there is no basis for the combination is also unpersuasive. The argument fails to focus on the claimed invention, but instead asserts differences in the disclosures.

Applicant's arguments with respect to claim 7 have been persuasive. The rejection of claim 7 is withdrawn.

Allowable Subject Matter

Claim 23 is allowed.

Claims 7 and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest the subject matter of claim 7 in the context of the base claim, or in the context of claim 23, which includes similar language. The check for a certain amount of dissimilarity, as pointed out by Applicant, is not taught or suggested in the references.

With respect to claims 19-22, these claims recite a feature that is simply not taught or suggested in the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Voice

Inquiries for the Examiner should be directed to Mark Tremblay at (703) 305-5176. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (703) 305-3503. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

MARK TREMBLAY
PRIMARY EXAMINER

December 16, 2002